

## REMARKS

Claims 34-70 and 74 were rejected under 35 USC 101 as being directed toward non-statutory subject matter. In essence, the Examiner contends that the claims are directed toward what amounts to computer programs *per se*. The applicants respectfully disagree.

The applicants are not claiming a computer program *per se* as contended in the Office Action. Generically, independent Claims 34, 59, 65 and 74 read:

“A system, comprising:

**a general purpose computing device; and**  
a computer program comprising program modules  
executable by the computing device, **wherein the computing  
device is directed by the program modules of the computer  
program to,”**

Thus, the applicants are claiming a system including a computing device and a computer program where the computing device is directed by program modules of the program to perform certain actions. This is statutory subject matter.

As stated in the MPEP (see Section 2106 (IV)(B)(1)(a) at Page 2100-13, Rev. 2, May 2004):

“Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in

the computer program.”

Clearly, in the case of the rejected claims, the computer program is being claimed as part of a statutory machine—namely a computing device which executes the programs modules. Accordingly, given that Claims 34-70 and 74 are directed toward statutory subject matter, it is respectfully requested that the rejections be reconsidered.

In summary, it is believed that the rejected claims are in condition for allowance. Accordingly, reconsideration of the rejection of Claims 34-70 and 74 is respectfully requested, and allowance of these claims at an early date is courteously solicited.

Respectfully submitted,



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